

In the Eye of a Storm: Surviving the Neighbour from Hell in Social Housing



- **What is Social Housing?**

Social housing is secure affordable housing for people on low to moderate incomes who have a housing need.

It includes public housing properties owned or managed (in NSW at least) by Housing NSW, the Aboriginal Housing Office and community housing properties managed by not for profit, non government registered community housing organisations.

To be eligible for social housing, your household income must be within the social housing eligibility limits.



Social housing income eligibility limits from 2 July 2012 to 30 June 2013

Household members (regardless of relationship)	Maximum gross weekly income (before tax)
First adult (single)	\$535
Each additional adult (18 years or over)	Add \$200
First child (under 18 years)	Add \$265
Each additional child (under 18 years)	Add \$90
For example, if your household includes:	Each week, your household can earn (before tax):
1 adult	\$535
1 adult + 1 child	\$800
1 adult + 2 children	\$890
1 adult + 3 children	\$980
1 adult + 4 children	\$1,070
2 adults	\$735
2 adults + 1 child	\$1,000
2 adults + 2 children	\$1,090
2 adults + 3 children	\$1,180
2 adults + 4 children	\$1,270
If someone in your household receives a:	
Disability allowance (per person)	Add \$90
Exceptional disability allowance (per person)	Add \$200

Who lives in Social Housing?



Priority access to social housing is typically given to people in greatest need.

Greatest needs households are defined as households that, at time of allocation, are either homeless, in housing inappropriate to their needs, or in housing that is adversely affecting their health or placing their life or safety at risk.

About 75% of adults living in social housing are not in the labour force, compared with 13% of those in private renter households.

Social housing households are much more likely to be home to people with a disability, partly reflecting the older age profile of people living in social housing. Of all renters living in social housing 67% reported having a disability, compared 19% of private renter households.

HOUSING ASSISTANCE TYPE BY SELECTED PERSONAL CHARACTERISTICS - 2009-10

	Social housing households	CRA(a) recipient households	Unassisted private renter households
	% persons	% persons	% persons
Sex			
Male	42	46	53
Female	58	54	47
Age			
Under 18 years	32	39	20
18-30 years	8	18	35
31-40 years	10	17	23
41-50 years	15	9	13
51-64 years	17	9	8
65 years and over	18	8	1
Employment status (aged 15 years and over)			
Employed full time	10	19	64
Employed part time	11	20	20
Unemployed looking for work	5	10	3
Not in the labour force	74	51	13
Disability			
Persons with a disability	67	44	19
Total	100	100	100

(a) Commonwealth Rent Assistance.

Source: ABS 2009-10 Survey of Income and Housing

What Duties Does a Landlord Owe Their Tenant?

QLD

Residential Tenancies Act 1994 - SECT 101

VIC

Residential Tenancies Act 1997 - SECT 67

SA

Residential Tenancies Act 1995 - SECT 65

WA

Residential Tenancies 1987 - SECT 44

TAS

Residential Tenancy Act 1997 - SECT 55

NT

Residential Tenancies Act - SECT 66

ACT

Residential Tenancies Act 1997 - SECT 71E

NSW – Residential Tenancies Act 2010

50 Tenant's right to quiet enjoyment

(1) A tenant is entitled to quiet enjoyment of the residential premises without interruption by the landlord or any person claiming by, through or under the landlord or having superior title (such as a head landlord) to that of the landlord.

(2) A landlord or landlord's agent must not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in using the residential premises.

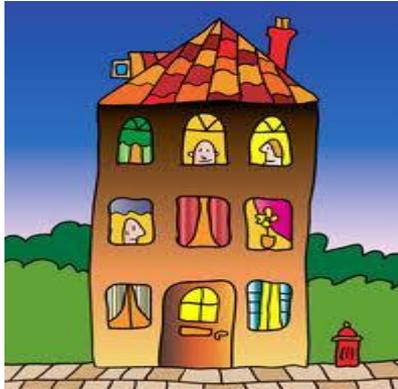
Maximum penalty: 10 penalty units.

(3) A landlord or landlord's agent must take all reasonable steps to ensure that the landlord's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in using the residential premises.

(4) This section is a term of every residential tenancy agreement.

Extent of a Landlords Obligations

- Whilst all Australian States and Territories relevant residential tenancy legislation contain a 'quiet enjoyment' provision **only** New South Wales, South Australia and Western Australia go so far as to expressly require a landlord to take all reasonable steps to ensure that the landlords other tenants do not interfere with the reasonable peace, comfort or privacy of a tenant.



Department of Housing v CTTT & Anor [2003] NSWSC 150 (NSW Supreme Court, 31 March 2003)

Mr and Mrs Ingram were Department of Housing Tenants. A breach of their right to quiet enjoyment and reasonable peace, comfort and privacy occurred due to harassment by a neighbour, who was another Department of Housing tenant.

Evidence showed that the Department of Housing was aware of the threats and disturbances suffered by the Ingram's. The CTTT found that the Department's failure as landlord to take any active steps to prevent further breaches amounted to an implied licence to the disruptive tenant. Compensation was therefore payable.

The Department of Housing appealed to the Supreme Court. Justice Shaw held that the CTTT was entitled to find liability for the breaches of the tenancy agreement attached to the Department. The appeal was dismissed.

Current Complaints Process – Housing NSW



Extract from Housing NSW website

Being a Good Neighbour

Housing NSW is committed to a fair and discrimination free living environment for all tenants and will not tolerate harassment or discrimination towards any tenant or tenant group. This includes verbal, physical or any other form of harassment, discrimination or threatening behaviour related to racial, religious, cultural or personal differences.

Tenants have an obligation to abide by the conditions of their tenancy agreement, including being responsible for their own conduct as well as for the behaviour of other occupants and visitors to their property.

...

Housing NSW will not intervene in a neighbourhood dispute or investigate allegations unless it is a breach of the tenancy agreement.

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Housing NSW will encourage tenants to try and resolve problems with other tenants themselves, or with the assistance of mediation services. Housing NSW will refer tenants to Community Justice Centres for assistance when appropriate and the parties agree to attend.

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Case Studies

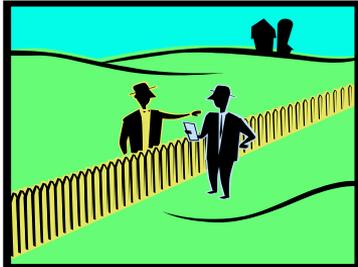
Tom is a social housing tenant and was referred to the HCLC by the IDRS. He was physically assaulted by a neighbour and was being verbally abused by several neighbours each time he left his home. Tom reported the assault and ongoing harassment to Housing NSW. Tom was becoming increasingly frightened by the conduct of his neighbours.



Sally is a social housing tenant and has five children, all of whom have an intellectual disability. Initially Sally got along well with her neighbour, however their relationship deteriorated over time. Sally's neighbour now spies on Sally over the fence and films Sally and her children when they leave their home. Sally's neighbour also verbally abuses Sally and her children. Sally reported her neighbour's harassment to Housing NSW.

Case Studies Continued

Housing NSW did not investigate any of Tom's complaints and Tom eventually applied for an Apprehended Personal Violence Order ("APVO") in the Local Court against his neighbours. The HCLC assisted Tom at the Local Court and assisted Tom in writing a letter of complaint to Housing NSW which resulted in Tom being successfully transferred.



Sally applied for an APVO in the Local Court against her neighbour as her children were being affected by her neighbour's conduct.

The HCLC assisted Sally in the Local Court and assisted Sally in following up her complaints with Housing NSW.

Housing NSW have commenced proceedings in the CTTT against Sally's neighbour – however they still ongoing.

What Can You Do?



- Assisting Clients
 - Advising the client of their rights and obligations under a lease;
 - Writing to the landlord on behalf of a client;
 - Assisting clients to commence proceedings in the relevant tribunal
- Community Legal Education
- Law Reform
 - HCLC current law reform project

